



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
MANPOWER AND RESERVE AFFAIRS  
111 ARMY PENTAGON  
WASHINGTON, DC 20310-0111

March 26, 2003

MEMORANDUM FOR CHIEF OF MILITARY HISTORY

SUBJECT: Request for Exemption of Military History Function from Third Wave

Reference Military History memorandum, subject: request for Exemption of Military History Function, 14 January 2003.

**Function.** This request includes military and civilian historians and curators as well as museum specialists, exhibit specialists, librarians, archivists, technical editors, visual information graphics specialists, and cartographic professionals within the Army history community to include both the infrastructure and the operating forces.

**Decision.** Military history is not a core competency, not required by statute nor inherently Governmental, and there is no basis for military performance of the function. Therefore the function can be divested, transferred to another agency, or competed as a matter of management decision. However, the support rendered by military history to the Army's core functions argues against divestiture while the independence needed to foster the historical profession's own core values are better served through other alternatives to A-76 outsourcing. Accordingly, I am exempting the military history function from both divestiture and A-76, but not from the Third Wave at this time. Instead, I am directing the Center of Military History (CMH) to explore privatization, with special emphasis on partnering with a university, a solution that could allow the Army history community to retain and secure its own subject matter expertise while retaining the synergy and cohesion of the current organization.

At enclosure are general instructions on how to implement this decision, the specifics to be developed by Deputy Chief of Staff, G-1 in coordination with our responsible staff officers.

**Requestor's position on Issues.** The request claims that military history is a core function because past experience is inextricably involved in making current decisions regarding mobilization, combat operations, force structure, military organization, education and training, readiness, and other areas of unique and enduring Army interest. It also asserts that custodianship of the documents and artifacts under the control of Army historians and curators is an inherently Governmental function. Furthermore, CMH claims that government employees must supervise work already contracted out and that the expertise possessed by CMH's historians and curators does not exist in the civilian sector and could not be sustained in a contracted setting. Finally, CMH holds that neither outsourcing nor privatization is appropriate unless the

values of the historical profession (objectivity, accuracy, balance, comprehensiveness, logic of organization, literary merit, and the scientific use of evidence) can be assured.

**Standard of Review.** The senior HQDA functional official for a function must describe and substantiate specifically how preparation and implementation of a Third Wave implementation plan for each course of action poses substantial and specific risks to a core war fighting mission of the Army (i.e., a core competency) or violates a statutory requirement affecting a function. The following are risk factors to evaluate this request: force management risk; operational risk; future challenges; and institutional risk. How these risk criteria are applied may vary based on each course of action evaluated (i.e., A-76; alternatives to A-76; military conversions; transfer to another agency; divestiture). Therefore, exemption requests and decisions must assess the potentially adverse impact of each course of action.

**Core Competency Relevant to Risk Issue.** The military history function is not one of the six recognized core competencies of the Army as provided for in Army Field Manual 1 and The Army Plan: Shape the Security Environment; Prompt response; Forcible Entry Operations; Mobilize the Army; Sustained Land Dominance; or Support Civil Authority. Therefore, the risk criteria pertaining to the impact of an implementation plan or sourcing decision as it pertains to the Army's war-fighting competencies are not relevant to the military history function.

**Statutory Requirements Relevant to Risk Issue.** No statutes have been identified which would preclude transfer, divestment or outsourcing of this function.

**Inherently Governmental Relevant to Outsourcing Issue.** An inherently Governmental function includes those activities that require either the exercise of substantial discretion in applying Government authority or the making of value judgments in making decisions for the government. An inherently Governmental function is so intimately related to the public interest as to require performance by Federal Government employees. It does not include giving advice to Government officials.

Although the Historic Preservation Act, Title 16, U.S. Code, Section 461 declares a national policy "to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States," this statute does not define the scope of what is or is not inherently governmental. An appeal decision regarding FAIR Act challenge Number 2000-0107 addressed the issue of whether historian and curator functions are inherently Governmental and determined that these functions can be outsourced. Historian and museum functions described in CMH's request such as writing history, performing research, and maintaining artifacts do not involve substantial discretion or value judgments in applying Government

authority or in making decisions for the Government. Even those who function as "policy historians" are performing services, which are advisory in nature and as such not inherently Governmental. Indeed, the Army Regulations cited by CMH even contemplate the use of contractors. See Army Regulation 870-20, paragraph 3-8 which states: "Contract support may be used to provide conservation or restoration of the artifacts, physical security, exhibit production, and training, education and outreach programs." While CMH contends that the "average GS historian " has no civilian/commercial equivalent, it admits that it hires retired government historians on a contract basis. (See p. 4, para. 3 of CMH's request.) If there is truly no appropriate military history expertise in the private sector, the competitive process will establish this. While a core Government staff of managers must be retained in order to oversee contractor performance and exercise ultimate custody and control over the museum collection, contractors may perform most other functions.

**Statutes Relevant to Transfer Issue.** There are no statutes prohibiting transfer of this function to another agency, such as the Smithsonian. Title 16 U.S. Code, Section 461 does not require the Army to maintain actual control over this function. The Secretary of the Army is free to make other implementation choices.

**Personal Services Relevant to Sourcing Decision.** Where supervision by an official making inherently Governmental decisions in a management headquarters is required for effective performance of an activity in support of that decision maker, there is a basis for exempting that activity, whether advisory or clerical support, to avoid an inappropriate personal services contract. In addition, if persons supervised by an inherently Governmental decision maker in turn must supervise individuals supporting them in order to effectively perform the activity, a further extension of this exemption may be warranted.

**Conflicts of Interest.** Your request does not appear to raise any inherent conflict of interest issues pertaining to the Third Wave implementation plan courses of action. I am prepared to deal with this issue as an exemption issue at any point during the course of implementation of Third Wave courses of action.

**Military conversions.** Insofar as the military history function is not a core competency, not mandated by statute, nor inherently Governmental, the basis for arguing for military performance is weak and solely within management discretion. The central issue concerns whether adequate performance of the function in the infrastructure requires military-unique knowledge and skills. According to Office of Secretary of Defense Guidance for compiling the Inventory of Commercial and Inherently Governmental Activities, military unique knowledge and experience can only be derived from *recent* first-hand involvement in military activities – i.e., through commanding military forces or conducting or participating in military operations or

exercises. This knowledge and experience must be more substantial than familiarity with doctrine, tactics, operations, or regulations; capabilities that can be developed by civilians; or, advice military retirees can provide based on their knowledge and experiences.

A handwritten signature in black ink, appearing to read "Reginald J. Brown", with a long horizontal flourish extending to the right.

Reginald J. Brown  
Assistant Secretary of the Army  
(Manpower and Reserve Affairs)

Enclosure

## CODING RULES for Center of Military History

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|---|--|
| 1. Military History functions in the Generating Force     | Code X – Candidates for alternatives to A-76 |
| a. Military Historian (Officers with ASI 5X)              |  |
| b. Curators (GS-1015)                                     |  |
| c. Museum Staff (GS-1016, GS-0170, GS-1421)               |  |
| d. Center of Military History (MDEP: FAOD or UIC: W3YUAA) |  |
| e. Museum programs (MDEP: VMUS)                           |  |
| 2. Military History functions in the Operating Force      | Code X – Candidates for alternatives to A-76 |
| a. All personnel in SRC20 MTOE units                      |  |